

CUMBERLAND COUNTY POLICY COMMITTEE
COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
SEPTEMBER 4, 2014 – 10:30 A.M.
MINUTES

MEMBERS PRESENT: Commissioner Jimmy Keefe, Chairman
Commissioner Charles Evans (arrived at 11:45 a.m.)
Commissioner Ed Melvin

OTHER COMMISSIONERS
PRESENT:

Chairman Jeannette Council
Commissioner Marshall Faircloth
Commissioner Kenneth Edge
Commissioner Billy King

OTHERS PRESENT:

Amy Cannon, County Manager
James Lawson, Deputy County Manager
Rick Moorefield, County Attorney
Sally Shutt, Governmental Affairs Officer
Melissa Cardinali, Assistant County Manager for Finance/
Administrative Services
Buck Wilson, Public Health Director
Rod Jenkins, Deputy Public Health Director
Julean Self, Human Resources Assistant Director
Randy Beeman, Emergency Services Director
Jody Risacher, Library Director
Austin Keating, Child Support Director
Chris Frank, Chairman of the Board of Health
Jay Barr, Chairman of the Wrecker Review Board
Rob Hasty, Assistant County Attorney
Vicki Evans, Finance Accounting Manager
Ockidde Harris, CTG Coordinator
Johnny Chance, Wrecker Operator
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Commissioner Keefe called the meeting to order.

1. APPROVAL OF MINUTES – MAY 8, 2014 REGULAR MEETING

MOTION: Commissioner Melvin moved to approve the minutes.

SECOND: Commissioner Keefe

VOTE: UNANIMOUS (2-0)

2. CONSIDERATION OF APPROVAL OF REVISION TO RULE 24 OF
“WRECKER AND TOW SERVICE RULES AND REGULATIONS”

BACKGROUND:

County Ordinance 9-64 states “The Board of Commissioners from time to time, may adopt such regulations and rules as deemed advisable for the administration of this article, whether on recommendation of the Wrecker Review Board or on the initiative of the Board of Commissioners.”

The Wrecker Review Board recommends that Rule 24 be revised as follows to make it more uniform with the Rules and Regulations with the City of Fayetteville Wrecker Review Board and to assist in securing payment for towing services.

- Current Rule 24: Upon request or demand, the rotation wrecker companies will return personal property stored in or with the vehicle, whether or not the towing, repair, or storage fee on vehicle has been or will be paid. Personal property for the purposes of this provision includes any goods, wares, freight or any other property not requiring tools to remove from the vehicle.
- Proposed Rule 24: Upon request or demand, and proof of ownership or right to possession, the rotation wrecker operators shall return personal property stored in a vehicle, provided that all authorized charges for towing of the vehicle have been paid, with the exception that medicines and pocketbooks/wallets shall be returned to the owner upon request or demand whether or not the towing fee has been or will be paid. Rotation wrecker operators may not require payment of any storage fees as a prerequisite to release personal property. Any items attached to the vehicle such that a tool of any type is required for removal is not considered personal property under this provision.

RECOMMENDATION:

The Wrecker Review Board recommends that Rule 24 be revised.

Rob Hasty, Assistant County Attorney, reviewed the background information and recommendation as recorded above and responded to questions.

Jay Barr, Wrecker Review Board Chairman, stated the Wrecker Review Board is requesting a revision to Rule 24 to protect wrecker companies against unwarranted expenses. Mr. Barr stated vehicles are currently being abandoned after having been towed to wrecker companies and can sit on their lots for up to a year before the wrecker company is able to dispose of them.

Johnny Chance, wrecker operator in attendance, stated the City of Fayetteville requires that individuals pay for the initial tow bill before they can obtain their personal belongings so that the wrecker company is able to recoup some money at that time. Mr.

Barr explained as long as the individual pays their initial tow bill, they will be able to obtain their personal property and under the proposed rule can obtain medicines and pocketbooks/wallets regardless of whether they pay the tow bill.

Commissioner Melvin stated he cannot support the proposed rule as presented because he does not feel it is right to hold items such as a work computer. Commissioner Council stated she needs to know how personal property is defined before she can support the proposed revision. Commissioner Keefe stated any decision by the Policy Committee needs to be defensible. Commissioner Edge stated although the rule is weak and needs to be revised, he does not agree with the revision as presented.

Commissioner Keefe asked whether the Wrecker Review Board would be satisfied if the County's policy mirrored the City of Fayetteville's policy. Mr. Barr stated the Wrecker Review Board meets quarterly but can call a special meeting if necessary to discuss bringing back a new proposal to the Policy Committee. Mr. Moorefield explained the City of Fayetteville's rule is like the County's current rule with the exception that the City of Fayetteville requires payment of the tow bill before any personal property can be removed. Mr. Hasty read both the City of Fayetteville's rule and the proposed rule of the Wrecker Review Board.

Consensus of the Policy Committee was to have the Wrecker Review Board come back at a later date with another proposal.

3. PRESENTATION ON SMOKE-FREE OPTIONS

BACKGROUND:

County Manager Amy Cannon requested County Attorney Moorefield to draft amendments to the Smoking Ordinance to expand its coverage to include electronic cigarettes. County Manager Amy Cannon will address the need for the requested amendment. When drafting the amendment, County Attorney Moorefield determined that the implementation and enforcement sections needed further amendment.

RECOMMENDATION/ACTION REQUESTED:

Consider the proposed amendments to the Smoking Ordinance.

Buck Wilson, Public Health Director, stated the Board of Commissioners and the Board of Health put a smoking ordinance in place as of September 1, 2014. Mr. Wilson stated at a Board of Health meeting, Commissioner King asked what the County was doing to help Breast Cancer rates. Mr. Wilson stated he suggested the possibility of expanding the smoking ordinance. Mr. Wilson stated once the Board of Health knows the Commissioners supports expansion of the smoking ordinance, they will develop recommendations to return to the full Board.

Ockidde Harris, CTG Coordinator, reviewed the following information:

The Challenge:

Cumberland County employees and citizens visiting County buildings and grounds have been awarded protections from the dangers of secondhand smoke exposure through Chapter 9.5, Article VII, Sec. 9.5-93 of the Cumberland County Code. Unfortunately, employees and citizens working in and/or visiting municipal buildings, municipal grounds (including parks and recreation areas), or indoor public places, are not guaranteed these same protections. These unprotected individuals are at increased risk of premature death and disease including cancer, asthma attacks, and heart disease.

Health Considerations:

- Scientific evidence indicates that there is not a safe level of exposure to secondhand smoke
- The leading causes of death in Cumberland County are heart disease, cancer, and lower chronic respiratory disease, all of which have tobacco use as one of the leading risk factors
- Lung cancer is the leading cause of cancer death with smoking being the root cause for 90% of lung cancer deaths in men and 80% of lung cancer deaths among women
- Emergency room visits by North Carolinians experiencing heart attacks have declined by 21% since Jan 2010 start of the Smoke-Free Restaurant and Bar Law
- Outdoor exposure to tobacco smoke can be high, especially when someone is near a smoker, such as when sharing a bench or pushing a child on a swing
- Children exposed to secondhand smoke are at increased risk for acute respiratory infections, asthmas attacks and ear problems.

Economic Considerations:

- Annual healthcare costs in NC caused by smoking are estimated at \$2.46 billion with secondhand smoke costing \$288.8 million
- The NC Restaurant and Lodging Association reports the smoking ban has had a positive impact on restaurant sales since the law's implementation.
- An unhealthy population generates costs in preventable health care expenditures, higher premiums from insurance companies and health care cost to business, and greater public expenditures on Medicaid and Medicare
- Businesses want to locate to regions with healthier populations because their costs are lower and productivity is higher

The Solution:

The Board of Health and County Commissioners have the authority to protect workers, visitors, and residents from secondhand smoke exposure and create healthy social norms. Local governments can provide safe and healthy environments, both indoors and out, as well as reduce health care costs for all Cumberland County citizens, employees, and visitors by creating smoke-free environment.

Areas where smoking can be restricted include:

- All County and Municipal buildings, vehicles, and grounds including playgrounds, trails and athletic fields
- Bus Stops
- Sidewalks that are maintained by the County or Municipality
- Public Transportation
- Common areas of multi-unit residential facilities/buildings
- Office, retail, and other commercial establishments where the public is invited or permitted

Questions and discussion followed.

Rick Moorefield, County Attorney, advised the current ordinance simply prohibits the smoking of tobacco and does not regulate electronic cigarettes because electronic cigarettes are not cigarettes as contemplated by the ordinance, do not produce smoke, and do not combust tobacco. Mr. Moorefield stated he recommends that the enforcement provisions in Sections 9.5-95 and 9.5-96 be amended to clarify the amendment's authority and penalties. Mr. Moorefield stated the following amendments would accomplish management's recommendation to regulate electronic cigarettes and his recommendations to clarify the language in the enforcement authority and penalties provisions:

AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS AMENDING CHAPTER 9.5, ARTICLE III, SMOKING, OF THE CUMBERLAND COUNTY CODE

WHEREAS, Cumberland County adopted an ordinance regulating tobacco smoke in 1993; and

WHEREAS, Cumberland County's smoking ordinance was amended by actions taken by its Board of Commissioners May 6, 2013, and March 17, 2014; and

WHEREAS, the Board of Commissioners finds that electronic cigarettes, also referred to as E-cigarettes, and other devices used as systems for the delivery of nicotine are now being used as substitutes for cigarettes and other devices for smoking tobacco; and

WHEREAS, these devices for the delivery of nicotine are not regulated by the County's smoking ordinance as amended through March 17, 2014; and

WHEREAS, the Board of Commissioners finds that use of these devices for the delivery of nicotine within public buildings and grounds has become an annoyance, a nuisance, and a health concern to the employees working within these public buildings and the citizens conducting business in these public buildings much as secondhand tobacco smoke did before smoking was prohibited; and

WHEREAS, the Board of Commissioners finds the further amendment of the County's smoking ordinance to regulate the use of electronic cigarettes and similar devices for the

delivery of nicotine within public buildings and upon the grounds of public buildings, to be in the public interest and to promote health, safety and welfare.

NOW THEREFORE BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Chapter 9.5, Article III, Smoking, of the Cumberland County Code is hereby designated as Chapter 9.5, Article IIIA, Smoking, of the Cumberland County Code.

The existing language in Section 9.5-90 of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is designated as subsection “a” and subsection “b” is added to this section to read as follows:

(b) The Board of County Commissioners further finds that the increasing use of electronic cigarettes, also known as E-cigarettes, within public buildings and upon the grounds of public buildings has become an annoyance, a nuisance, and a health concern to the employees working within these public buildings and the citizens conducting business in these public buildings much as secondhand tobacco smoke did before smoking was prohibited by this article. The further purpose and intent of this article is to promote the public health, safety and general welfare by prohibiting the use of electronic cigarettes and similar nicotine delivery devices to the same extent that cigarettes and devices for smoking tobacco are prohibited.

Section 9.5-91 of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is hereby amended by adding the following to the definition of *smoke or smoking*:

(4) The use of any electronic cigarette, E-cigarette or any device for the delivery of nicotine through a vaporization process with or without the combustion of any plant material, and with or without the emission of any smoke or vapor.

Subsection 9.5-95(b) of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is hereby amended to read as follows:

(b) The person in charge of any area where smoking is prohibited by this article, or the designee of such person, shall direct a person who is smoking to cease and, if the person does not comply, shall contact the enforcement officer for the County. The enforcement officer shall be designated by the Board of County Commissioners.

Section 9.5-96 of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is hereby amended to read as follows:

(a) *Penalty for Violation.* Following a directive to cease smoking issued by any deputy sheriff or any person duly authorized pursuant to subsection 9.5-95(b) of this article, failure to cease smoking constitutes an infraction punishable by a fine of not more than fifty dollars (\$50).

(b) *Enforcement.* The designated enforcement officer or deputy sheriff shall cause a citation to be served upon the violator stating the nature of the violation, the amount of the penalty, and directing that the violator shall pay the penalty to the County tax collector's office within fourteen (14) days of receipt of the citation. If the violator does not pay the penalty as directed, the violation shall be prosecuted as an infraction in accordance with G.S. § 130A-498(c1).

(c) *Additional sanctions for employees.* In addition to any other penalty under subsection (a), employees of the County who violate this article shall be subject to disciplinary action in accordance with the County's Personnel Ordinance and policies.

Section 9.5-98 of Chapter 9.5, Article III (now IIIA), Smoking, of the Cumberland County Code is hereby amended to read as follows:

This article as amended by action of the Board of Commissioners shall be effective upon adoption of the amendments.

In response to questions posed by Committee members, Mr. Moorefield advised the prohibition on electronic cigarettes could be applied only within county buildings.

After further discussion, consensus of the Policy Committee was to wait for further information and clarification of the recommendations as part of a more comprehensive review of the ordinance.

4. CONSIDERATION OF NCACC LEGISLATIVE GOALS RECOMMENDATIONS

BACKGROUND:

The North Carolina Association of County Commissioners (NCACC) has outlined its state legislative goals development process for the 2015-2016 biennial sessions and set a September 19, 2014, deadline for counties to submit their legislative proposals to the association for consideration.

As part of Cumberland County's process, we asked the Leadership Team to submit their recommendations and have compiled the attached list for your consideration. Your

recommended goals will go to the full Board of Commissioners for approval at the September 15, 2014 meeting.

RECOMMENDATION/PROPOSED ACTION:

Consider the goals as recorded and make a recommendation to the full Board of Commissioners for approval of the County's state legislative goals to be forwarded to the NCACC by the September 19, 2014 deadline.

Sally Shutt, Governmental Affairs Officer, reviewed the background information and recommendation as recorded above and responded to questions. Ms. Shutt then presented the following proposed goals:

Child Support Goals - (Submitted by Child Support Director Austin Keating)

- Oppose the state retaining a portion of the federal Child Support incentive money that has been going to counties. The General Assembly has a section titled Program Evaluation Division, which released Report Number 2014-08 on July 16, 2014, titled "Revising State Child Support Incentive System Could Promote Improved Performance of County Programs." The report recommends the General Assembly do the following:
 - Direct the CSS State Office to retain 25 percent of federal incentive money to:
 - Improve centralized services
 - Provide employee incentive bonuses
 - Direct counties to:
 - Report how incentive payments are being reinvested based on guidelines from the CSS State Office
 - Maintain county expenditures for child support services

If the State Office of Child Support retains 25 percent of incentives from the federal government that currently go to the counties, this will put added cost back on the county. Reinvesting federal incentives is not an issue for counties that have out-of-pocket expenses to operate their Child Support programs.

Department of Public Health Goals - (Submitted by Health Director Buck Wilson)

- Restore State support for accreditation program for local health departments:
 - NCG.S. 130A-34.1 requires all local health departments to obtain and maintain accreditation in accordance with this section. Local county health departments must pay \$2,750 per year. Health Departments had to receive initial accreditation by December 31, 2014, and must maintain accreditation every four years.
- Oppose weakening of smoke-free restaurant and bars law. This was included in last year's NCACC goals and continues to be an important public health issue.
- Support raising the state tax on tobacco, including electronic cigarettes to the national average. It is proven that increasing state tax on tobacco results in less children

smoking. Additional tax dollars are assigned to the state of North Carolina in which the legislators will decide how to utilize the increased revenue.

- Support using Tobacco Master Settlement funds for public health to provide evidence-based tobacco prevention and cessation programs.
- Prioritize sustainability of State Local Aid to County funds for Local Health Departments. The Local Aid to county funding is the only non-categorical allocation by the state to local health departments. This flexible funding is intended to address locally identified gaps in services and community needs. Cumberland County Department of Public Health receives \$233,180 of State Local Aid to County funds. Examples of how these funds are used for include:
 - Environmental Health Specialists, which are required positions
 - Additional training for staff
 - Mobilize community partnerships to identify and solve health problems
 - Monitor health status to identify health problems

Department of Social Services Goal: *(Submitted by Social Services Director Brenda Jackson)*

- Rescind the 10 percent increase in co-payments for all households receiving childcare subsidies and restore the proration of child care subsidy co-payments.
 - With 10 percent increase in co-payments presents a financial hardship for parents and caregivers, which could prevent children from receiving childcare subsidies. The impact could lead to lack of proper supervision of children, an increase in latch key children and a reduction in early education opportunities for children, which also increases incidents of child neglect.

Mental Health Goal: *(Submitted by Commissioner Kenneth Edge)*

- Support the public behavioral health managed care organization model currently in place.
 - As the General Assembly considers options for reshaping the state's Medicaid system, it is in the best interest to maintain the current MCO model. The LME/MCO's across the state are proving to be highly effective in responding to their mandates to ensure high-quality services while containing costs. This has produced Medicaid budget predictability on the behavioral health side and \$153 million in system savings since the implementation of MCO operations statewide.

Library Goals: *(Submitted by Library Director Jody Risacher)*

- Restore funding to State Aid to Public Libraries Fund to the pre-2011 level of \$15.7 million; and eliminate special provisions that distribute State Aid outside of the equitable formula developed by the State Library Commission.
 - Public libraries are critical contributors to local workforce development by providing access to computers, job search assistance, small business support, and help with educational goals. Free early literacy programs and materials ensure that all children can attain the skills needed for success in the formal classroom. Summer activities counter the "summer slide"

during which school-age children lose reading skills. Public libraries are integral to our communities as centers of lifelong learning accessible to all citizens.

- Support for public libraries is a matter of state policy as described in GS125-7. The State Aid fund supplements, but does not replace, local funding and is distributed to the 80 library systems by a population and per capita income based formula developed by the State Library Commission. As such, State Aid is a critical component of each library's operating budget, especially for regional library systems that serve multi-county areas.
- The state budget includes the following –
 - Cap Grants from State Aid to Libraries Fund Section 19.2 the Department of Cultural Resources shall not allocate a grant to any municipal or single-county library from the Aid to Public Libraries Fund that exceeds four hundred thousand dollars (\$400,000) for the 2014-2015 fiscal years.

MOTION: Commissioner Keefe moved to recommend to the full board consideration of approval of the County's state legislative goals to be forwarded to the NCACC by the September 19, 2014, deadline.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (3-0)

5. OTHER ITEMS OF BUSINESS

There were no other matters of business.

MEETING ADJOURNED At 12:00 PM